THE HON'BLE SRI JUSTICE K.C.BHANU

WRIT PETITION NO.16577 OF 2004

Between:

Sura Veera Reddy

……Petitioner

Vs.

The Doddappa District Cooperative Marketing Society Limited, Cuddapah, represented by its Chairman, Joint Collector, Cuddapah District

……Respondents

Dt.22.09.2005

O R D E R:

This writ petition is filed for declaring the action of respondents in cancelling the lease deed dated 16.6.2004 wherein the land in an extent of Ac 0.05 cents in R.S.No.534/4 of Guntapally Panchayat, Badvel Mandal, Cuddapah District, which was leased out to the petitioner for 30 years, by way of notice dated 08.09.2004 as illegal and to set aside the cancellation order-cum-notice dated 08.09.2004 by directing the respondents to restore the lease deed, dated 16.6.2004 accepting the Demand Drafts.

It is the case of the petitioner that he is in possession of 0.05 cents of land in R.S.No.534/4 situated at Guntapalli Panchayat, Badvel Mandal for the last 15 years. Responding to the application of the petitioner, the then Management of the first respondent Society passed a resolution dated 12.06.2004 and entered into an unregistered lease agreement with the petitioner, agreeing to lease out the said land for a period of thirty years. Though the petitioner is paying rents to the respondent regularly by way of Demand Drafts, without assigning any reasons, a notice, dated 08.09.2004 was issued to the petitioner cancelling the lease agreement. Hence, this writ petition is filed.

The first respondent filed counter stating that the land measuring 67 cents in S.No.534/4 belonging to the erstwhile Marketing Society of Guntapalli Grampanchayat, situated at Badvel town, was liquidated in the year 1987. The properties, which belong to the respondent-Society were occupied by some unauthorised persons. On an application filed by the petitioner to lease out the said land, a resolution, dated 12.06.2004 was passed by the then In-Charge Committee to lease out 5 cents of land to the petitioner for a period of thirty years. When the

petitioner failed to pay the rentals regularly, vide proceedings dated, 05.07.2004, the Government replaced the non-official PIC by appointing a new Committee. It is also stated that as the In-Charge Manager has no power to sign the lease deed, the same was cancelled by issuing a prior notice.

The third respondent filed counter stating that as some unauthorized persons occupied 60 cents of land belonging to Badvel C.M.S., only 7 cents of land remained unoccupied. Since the resolution passed by the Managing Committee granting lease to the petitioner is not valid, it has no authority to take such a policy decision without the permission of the Commissioner of the Registrar of Co-operative Societies. It is also stated that on 05.07.2004 the Joint Collector, Cuddapah was appointed as Person-in-Charge/Chairperson to cancel the unregistered lease agreement relating to 5 cents of vacant site, which was in occupation of the petitioner. Hence, the action of the respondent Society in terminating the lease is just and legal.

The learned counsel for the petitioner contends that as the proceedings dated 08.09.2004 are issued by the respondent authorities without giving any prior notice to the petitioner, the same are liable to be set aside.

On the other hand, the learned counsel for the respondents contended that as the Person-in-Charge/Chairman of the Committee executed the lease deed ignoring the fact that he has no such power to execute the lease deed, the writ petition is liable to be dismissed.

Though the petitioner executed the lease deed for a period of thirty years without any prior permission from the competent authority as required under Section 9 (A) of the Andhra Pradesh Co-operative Societies Act, 1964, the same has not been registered. As the resolution passed by the Person-in-Charge-Committee was not signed by the members of the Managing Committee and the petitioner has not

deposited any amount towards advance, the action of the respondents in issuing notice dated 08.09.2004 cancelling the lease deed, cannot be said to be illegal.

The writ petition is, therefore, dismissed as devoid of merit. No order as to costs.

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K.C.BHANU J.,

Dt.27.09.2005

tjs